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PRESIDING OFFICER'S
RULING NO. MC2002-1/1

POSTAL RATE COMMISSION
OFFICE OF THE PRESIDING OFFICER
UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Classification and Fees
for Confirm

Docket No. MC2002-1

PRESIDING OFFICER'S RULING
GRANTING EXTENSION OF TIME AND
ESTABLISHING PROCEDURAL SCHEDULE

(Issued May 30, 2002)

Two pleadings concerning procedural dates have been filed. First, the Postal Service has submitted a proposed procedural schedule. See Amended Notice of United States Postal Service of Proposed Procedural Schedule, May 21, 2002 (Amended Notice). Second, the Postal Service and the Office of the Consumer Advocate (OCA) jointly move for an extension of time to respond to Notice of Inquiry No. 1 (NOI No. 1) which concerns proposed changes to the Domestic Mail Classification Schedule (DMCS). See Joint Motion of United States Postal Service and Office of the Consumer Advocate for Extension of Time to Respond to Notice of Inquiry No. 1, and Interim Report on Settlement Discussions, May 29, 2002 (Joint Motion). The latter will be addressed first.

Joint Motion. The Postal Service and OCA request that the due date for comments on NOI No. 1 be extended from May 30 to June 7, 2002. *Id.* at 1-2. The Postal Service reports that it and the OCA have agreed in principle to settle this proceeding, noting, however, that "the general agreement does not yet extend to [NOI No. 1]." *Id.* at 1.¹ Consequently, joint movants request additional time to consider

¹ In addition, the Postal Service states that the agreement has not yet been drafted, but that once it has been reduced to writing, it will be circulated to all participants. *Ibid.* Further, the Postal Service reports that no party participating in settlement discussions has raised any issues that may preclude it from supporting or not opposing settlement. *Id.* at 1, n.1.

issues raised by NOI No. 1 “with the hope of including a response to [it] in the settlement agreement.”

The joint motion is granted. Given representations that the Postal Service and OCA agree in principle to settle this proceeding, a brief extension of time to address issues raised by NOI No.1 is warranted. The extension may enable the participants to incorporate the proposed DMCS changes into the settlement agreement and thereby obviate the need to comment separately on NOI No. 1.

Notice of Procedural Schedule. On May 17, 2002, the Postal Service submitted a proposed expedited procedural schedule for use in this proceeding. Notice of United States Postal Service of Proposed Procedural Schedule, May 17, 2002. The Postal Service suggests that expedition is warranted, citing the benefits of Confirm[®] to mailers and the limited discovery conducted to date. *Id.* at 1.

The procedural schedule was considered at the prehearing conference held May 20, 2002. See Tr. 1/6-9. At that time, June 25, 2002 was set as the hearing date for receipt of the Postal Service’s direct case. *Id.* at 8.² In addition, counsel for the Postal Service reported on the status of informal settlement discussions, indicating, *inter alia*, that participants had discussed possible revisions to the Postal Service’s proposed procedural schedule. *Id.* at 5-6. In light of this, the Postal Service was directed to submit an amended version of its proposed schedule. *Id.* at 8-9.

As requested, on May 21, 2002, the Postal Service filed an amended proposed procedural schedule. See Amended Notice at 1-2. The Postal Service represents that the proposed schedule affords participants an opportunity to resolve all issues through the discovery and hearing process and complies with the dates established at the prehearing conference. The proposed schedule provides as follows:³

May 31, 2002 Completion of discovery on the Postal Service's direct case.

June 25-26, 2002 Hearing for cross-examination of the Postal Service's direct case.

² June 26 was reserved as an additional hearing date in the event hearings continued beyond June 25.

July 2, 2002	Filing of the case-in-chief of each participant, including rebuttal to the Postal Service.
July 16, 2002	Completion of discovery directed to intervenors and the OCA.
July 23-24, 2002	Evidentiary hearings on cases-in-chief of intervenors and the OCA.
July 30, 2002	Filing of initial briefs.
August 6, 2002	Filing of reply briefs.

Further, the Postal Service proposed to shorten certain deadlines that ordinarily apply under the Commission's rules. Thus, it requests adoption of the following special rules:⁴

- ◆ All interrogatory responses shall be due on the tenth day after the questions were served; however all participants will endeavor to file responses before any scheduled hearing.
- ◆ All objections to discovery requests shall be due on the seventh day after service of the interrogatories at issue.
- ◆ Notice will be given to file all motions to compel on the fifth day after service of any objections, participants will endeavor to file such motions on the seventh day after service of any objections, and all motions to compel shall be due on the tenth day after service of any objections.
- ◆ Participants will endeavor to file all replies to such motions on the third day after service of the motion and all replies to such motion shall be due on the fifth day after service of the motion.

Finally, referring to management's hopes to implement Confirm[®] service by the beginning of FY 2003, the Postal Service asserts that the proposed schedule will enable the Commission to issue its Recommended Decision in timely fashion. *Id.* at 2-3.

³ See Amended Notice at 1-2.

⁴ *Id.* at 2.

The proposed schedule is adopted, except for the special rules. At the prehearing conference, counsel for the Postal Service was optimistic about the prospects for settlement. Tr. 1/5. The Joint Motion attests to the accuracy of that assessment. Nonetheless, until the settlement has been finalized and submitted to the Commission, it is prudent to establish a procedural schedule in the event that settlement fails to materialize.

The proposed procedural dates afford the participants adequate time to pursue settlement, which has apparently been realized, while also providing sufficient time for issues to be developed through discovery and hearings should settlement not be achieved. Moreover, no participant opposes the proposed schedule. Consequently, on balance, the proposed procedural dates are found to be reasonable. They promote expedition while accommodating the various interests of the participants and assuring the development of a record on which the Commission can base its Recommended Decision.

The proposed special rules will not be adopted. There is no pressing need to adopt these exceptions to the Commission's rules at this time. Should circumstances change, however, the Postal Service (or other participant) can renew the request for the adoption of special rules.

RULING

1. The Joint Motion for extension of time submitted by the Postal Service and OCA to respond to NOI No. 1 is granted. The due date for comments on NOI No. 1 is June 7, 2002.
2. The Postal Service's proposed procedural schedule, excluding adoption of the proposed special rules, is adopted as set forth in the body of this Ruling.


George Omas
Presiding Officer